

## **REMARKS**

### **1. Claims Amendments.**

Claims 1 – 28 have been cancelled without prejudice and replaced with new Claims 29 – 32, which incorporate features of Claims 1 – 28 and have been included rather than making extensive changes to independent Claims 1, 19 and 20.

Claim 29 incorporates features from Claims 1, 2, 3, 4, 8 and 9. No new matter has been added.

Claim 30 is analogous to Claim 7. No new matter has been added.

Claim 31 incorporates features from Claims 19, 20, and 23. No new matter has been added.

Claim 32 is analogous to a combination of Claims 21 and 22. No new matter has been added.

### **2. 35 USC 112 Issues.**

The cancelation of Claims 1 – 28 makes the objections to and the 35 USC 112 rejections of the claims moot. Applicant took the examiner's comments into consideration when crafting new Claims 29-32.

### **3. 35 USC 102 Issues and 35 USC 103 Issues.**

Applicant submits that new Claims 29 – 32 address the examiner's concerns under 35 USC 102 and 103 by clarifying the claimed invention.

Claim 29 provides a solution to a topic that has arisen in practice in the production of packs pursuant to the application and relating to the structure of the pack after assembly. The details of the invention pursuant to Claim 29 are shown in particular in FIG. 4 and FIG. 5 and relate to the cutout 49 for delimiting the box strip 26 from the lid strip 27. After the blank is folded and the pack is finished, the obliquely converging edges of the cutout 49 threaten to collide with the oblique collar edge 44, on one hand, and the opposed oblique closing edge or punched line 28, on the other hand. These two edges 28 and 44 are shown in particular detail in FIG. 6. FIG. 5 shows how the teaching of Claim 29 is applied such that the oblique edges of the cutout 49

correspond to the edges 28 and 24 in order to ensure that cutout edges are covered when the pack is open.

Clam 31 relates to the multipack pursuant to FIG. 6. The special feature here is that two identically configured sub-packages 56 and 57, each designed to accommodate a standard number of five cigarette packs 10, are connected to form a special unit. Each of the sub-packages are configured like a conventional hinge-lid pack, namely from a blank corresponding to FIG. 7. The sub-packages are connected detachably to one another such that the sub-packages can be used separately as sales or retail handling units.

Of further significance is the relative position of the sub-packages, namely their laterally reversed arrangement. This results in the overall package appearing as a single, double-sized hinge-lid pack. Each of the large-surface pack faces contains the contours of a lid, but otherwise has the "neutral" visible surface of pack rear wall 24 and lid rear wall 25. When one or the other sub-packages is opened by actuating the respective lid, the lid of the other sub-package does not interfere. The overall pack can be actuated, in terms of the sub-packages, only from one side or the other side.

With regard to the cited art, namely US Patent Nos. 5,143,213 to Moore, 6,742,651 to Focke, and 5,261,533 to Adams, these patents are inapplicable based on the clarification of the invention as now claimed in Claims 29 and 31.

Moore '213 relates to a hinge-lid pack used as a multipack, i.e., for accommodating a plurality of individual cigarette packs. The features now claimed in Claim 29 of the pack according to the invention find no corresponding or similar solution in the Moore '213 pack. Moore '213 employs a special flap margin 63, which prevents the lid strip 61 from being directly connected to the side wall of the lid. The cutout, or notch 92, has a different function in the Moore '213 pack than in the present invention. This is also expressed in the shape, dimension and positioning of the notch 92. In all cases, notch 92 lacks any functional or constructive interaction with the edges 80, 81 of the blank.

Focke '651 does relate to a hinge-lid pack in the embodiment or dimension of a multipack. The blank of the Focke '651 pack (see FIGs. 1 and 5) differs in its

systematic constructive design from the blank of the present patent application (see FIG. 3), and also from the blank of Moore '213 (see FIG. 1). The decisive differentiation results from the positioning of the collar 13 successive to the blank components 25, 27, 28 of the lid. In Focke '651 the correspondingly sized hinge-lid package contains two groups of individual cigarette packs (see FIGs. 4 and 8). Each group consists of five cigarette packs and the pack groups are arranged one above the other in the common hinge-lid package. In the present invention, the multipack pursuant to FIG. 6 – corresponding to Claim 31 – differs in its basic constructive design. The handling of the “double pack” pursuant to FIG. 6 of the present application is significantly simplified compared to the package of Focke '651. In particular, in the prior art the access to the cigarette packs of the lower pack group is made difficult.

Even less relevant is the “double pack” of Adams '533. Adams '533 relates to the typical “double carton”, i.e., a cigarette multipack in which the individual cigarette packs are arranged in two adjacent rows of five individual packs each. The packs of each row lie with their narrow sides abutting one another. Furthermore, Adams '533 differs fundamentally from the present invention because it provides for packs in the embodiment of a folding box having tuck portions 170, 270 as closing means. The majority of the various packages of Adams '533 cannot be compared to the present application either in detail or as a whole.

As the cited references do not disclose each and every element of independent Claims 29 and 31, they cannot anticipate these claims under 35 USC 102(b). Further, as the remaining claims depend directly or ultimately from Claims 29 and 31, the cited references cannot anticipate the remaining claims. For these reasons, Applicant requests that the Examiner find the pending claims allowable.

Additionally, under 35 USC 103(a), the prior art must not be given an overly broad reading, but should be read in the context of the patent specifications and as *intended by reference authors*. *Durling v. Spectrum Furniture Co.*, 40 USPQ2d 1788 (Fed Cir 1996). Thus, based on the principles espoused by the courts, the combination of features contained in the claims of the present patent application are neither

disclosed nor claimed in the cited references, are not obviated by the prior art and are allowable.

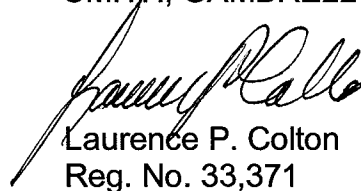
As the cited patents neither disclose nor fairly teach the combination of elements of the present invention as presently claimed, Applicant requests that the Examiner find the pending claims allowable under 35 USC 102(b) and 103(a).

### **CONCLUSION**

Applicant submits that the patent application is in proper condition for allowance, and respectfully requests such action.

If the Commissioner or the Examiner has any questions that can be resolved over the telephone, please contact the patent attorney of record.

Respectfully submitted,  
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